

## **REMARKS**

The Final Office Action mailed September 7, 2007, has been received and reviewed. Each of claims 1-30 stands rejected. Claims 1, 7-9, 11, 18, 19, 21, 24 and 28-30 have been amended herein and claims 6, 16, 17, 26 and 27 have been canceled. Accordingly, claims 1-5, 7-15, 18-25 and 28-30 remain pending. Care has been exercised to introduce no new subject matter. Reconsideration of the above-identified application in view of the above amendments and the following remarks is respectfully requested.

### **Rejections based on 35 U.S.C. § 102**

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,991,728 to DeBusk et al. (hereinafter the “DeBusk reference”). As the DeBusk reference fails to describe, either expressly or inherently, each and every element of claims 1-5, 7-15, 18-25, and 28-30, Applicants respectfully traverse the rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system for managing clinically related supply procurement. The system includes a first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising items used and/or consumed during a clinical event. The system also includes a second interface to receive care provider preference data for said clinical event from at least one clinically related site. The

system further includes an analytic engine, the analytic engine communicating with the first interface and the second interface to generate analytic reports that compare alternative supply section options for equivalent items based on prices supplied by at least two vendors.

In contrast, the DeBusk reference describes a method for tracking medical supply usage on a procedure level in a clinical setting. The method includes the steps of creating at least one procedural template comprising a list of anticipated supplies to be used during a given medical procedure and recording actual usage of supplies during the procedure in such a way that the actual usage information may be retrievable for the purpose of analysis. *See* the DeBusk reference, Abstract. Specific examples of analysis provided in the DeBusk reference include optimizing supply packs for a clinical procedure based on actual historical usage of supplies during that procedure, determining future demand by reviewing historical usage, and improving management of personnel resources. *See* the DeBusk reference, column 12, lines 1-49. Additionally, improving the accuracy of patient billing related to items used during a procedure is described. *See* the DeBusk reference, column 12, lines 50-60.

However, the DeBusk reference fails to describe, either expressly or inherently, an analytic engine that generates “analytic reports that compare alternative supply selection options for equivalent items based on prices supplied by at least two vendors.” The DeBusk reference describes comparing a supply template for a procedure with supplies actually used during the procedure. *See* the DeBusk reference, column 8, lines 30-37. The DeBusk reference does not describe comparing alternate supply selection options. Further, the DeBusk reference does not describe alternate supply selection options including vendor pricing information. Accordingly, the DeBusk reference does not describe an analytic report that “compares

alternative supply selection options for equivalent items based on prices supplied by at least two vendors.”

As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in claim 1, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 1. Each of claims 2-5 and 7-10 depends, either directly or indirectly, from independent claim 1 and define further patentable features. Accordingly, it is respectfully submitted that claims 1-5 and 7-10 are not anticipated by DeBusk for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-5 and 7-10 is respectfully requested.

Independent claim 11, as amended herein, recites a method for managing clinically related supply procurement. The method includes receiving patient supply data captured from at least one clinically related site. The patient supply data includes items used and/or consumed to treat a patient during a clinical event. The method also includes performing comparisons between alternative supply selections, wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections by two or more vendors. The method further includes generating a comparative report that shows the alternative supply selections from two or more vendors and storing the comparative report.

The DeBusk reference was described previously with reference to claim 1. Applicants respectfully suggest that the DeBusk reference does not describe “performing comparisons between alternative supply selections wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections from two or more vendors.” As stated previously, the DeBusk reference describes comparison reports that compare anticipated supply usage from a procedure supply template with actual usage during the procedure.

Volumetric (i.e. price per quantity of items) pricing information is not described anywhere in the DeBusk reference. Thus, a comparison based, at least in part, on volumetric pricing information is not described. Further, the DeBusk reference does not describe alternate supply selection options including vendor pricing information. Thus, a comparison based on volumetric pricing as a function of alternative supply selections from two or more vendors is not described by the DeBusk reference.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in claim 11, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 11. Each of claims 12-15 and 18-20 depends, either directly or indirectly, from independent claim 11 and defines further patentable features. Accordingly, it is respectfully submitted that claims 11-15, and 18-20 are not anticipated by DeBusk for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 11-15, and 18-20 is respectfully requested.

Claim 21, as presently amended, recites one or more computer-readable media having computer-executable instructions embodied thereon to perform a method for generating a clinically related supply policy. The method includes receiving patient supply data captured from at least one clinically related site. The patient supply data comprising items used and/or consumed during a clinical event. The method also includes performing comparisons between alternative supply selections wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections. The method further includes generating a comparison report that shows the alternative supply selections in storing the comparison report.

The DeBusk reference was described previously with reference to Claim 1. Applicants respectfully suggest that the DeBusk reference does not describe “comparisons that

comprise volumetric pricing information as a function of alternative supply selections.” Volumetric (i.e. price per quantity of items) pricing information is not described anywhere in the DeBusk reference. Thus, a comparison based, at least in part, on volumetric pricing information is not described. Accordingly, performing comparisons between alternative supply selections wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections is not described in the DeBusk reference.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in claim 21, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 21. Each of claims 22-25 and 28-30 depends, either directly or indirectly, from independent claim 21 and defines further patentable features. Accordingly, it is respectfully submitted that claims 21-25, and 28-30 are not anticipated by DeBusk for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 21-25, and 28-30 is respectfully requested.

## **CONCLUSION**

For at least the reasons stated above, claims 1-5, 7-15, 18-25 and 28-30 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or [ddevers@shb.com](mailto:ddevers@shb.com) (such communication via email is herein expressly granted) – to resolve the same. The fee required by 37 CFR 1.114 in association with filing an RCE has been submitted. It is believed that no additional fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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